

R. I. STATE BOARD OF ELECTIONS

MINUTES OF MEETING (OPEN SESSION)

March 1, 2005

An audio review of a tape made during the meeting and written file notes appear to indicate the following:

A roll call vote was taken at 9:45 a.m.;

A quorum of the Board consisted of Chair Roger Begin, Commissioners Judith Bailey, Florence Johnson and Frank Rego. (Note: Vice Chair Iannitti was present but recused himself from the Petreccia/Jones/Collins matter before the Board, today). Acting Executive George Bowen and Attorney Marcaccio were present, also;

With regard to the first order of business: The Board conducted a review of letters of complaint filed by Carolyn Petreccia, Thomas Jones and Tammy Collins of West Warwick (see attached complaints). In each letter, the complainant claimed that school committee members Serpa and Burns eroded the votes for them by making false allegations leading-up to the election.

Upon summarizing the complaints, Attorney Marcaccio offered that the Board's jurisdiction in the matter is questionable. He viewed the complaints as more of a "defamation of character issue" and not the tampering with of an election. Mr. Marcaccio offered that it may be

more of a matter of free speech.

Members from the public were invited to address the Board. They included Attorney Jeffrey Brenner (representing Ms. Petreccia), Frank Lombardo and Thomas Jones. Attorney Brenner believes the Board of Elections does have jurisdiction in the matter. He outlined several reasons why the matter should not be forwarded to another entity such as the RI Ethics Commission or Superior Court.

Chair Begin would not mind going forward with the matter more to take a look at what is the role of the Board of Elections and its Members. Are they the “arbiters of truth”? With this, Mr. Marcaccio offered that the Board could send a letter to Ms. Serpa and Mr. Burns saying that this is not good behavior. (Note: Attorney Marcaccio suggested that the clearing of the names of the complainants does not fall under the jurisdiction of the Board; the Members appeared to agree.)

Mr. Frank Lombardo addressed the Board. As a citizen, he asked that the Board of Elections make a statement to say “that this behavior is not professional”. He asked that the Board go on record to state publically that this behavior will not be tolerated.

Attorney Marcaccio remarked that he did not think it appropriate for the Board to forward the matter to the Ethics Commission because it may be taken to mean that the Board admitted that wrongdoing had

occurred and needed to be reviewed. Chair Begin, in an effort to assist the several parties, asked the Board's Acting Director to look into suggesting to the Ethics Commission that it might want to take a look at the matter before

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the Elections Board today. He hopes that in the future, the Board will have better guidelines in matters like this.

Mr. Jones suggested that if the Board does not take any action in the matter, then the Board is sending an "invisible" message that this behavior is acceptable. He is pleased that the Board is going to ask the RI Ethics Commission to take a look at the matter.

With regard to the next matter of business: The Board certified mail ballots for the Westerly Special Election being held this day.

With regard to the next matter of business: The Board reviewed and approved final job requirements for the Executive Director position. There was some discussion on the requirement or preference for a Certified Election Registration Administrator (CERA). Wanting to open-up the position to as many qualified persons as possible, the

Board removed any mention of the CERA credential.

With regard to the next matter of business: The Board discussed election complaints made by Mr. Jeff Tosti to the Providence Board of Canvassers regarding the action(s) of pollworkers during the November 2004 election. The Providence Board is working with Mr. Tosti to correct several procedures at the polls, especially, the uneven enforcement of election laws on election day. Mr. Bowen sent a copy of a video made by Mr. Tosti to the Providence Board of Canvassers. The local board will take-up the matter with Mr. Tosti to try to rectify some of the issues. The Providence Board agreed to send its report/findings on the “Tosti” matter to the Board of Elections. In closing Mr. Bowen offered that Mr. Tosti asked the Board for a formal procedure on how to file a complaint against pollworkers, in the event he (Mr. Tosti) is dissatisfied with the local board’s findings.

With regard to the next matter of business: The Members have a package of legislation sent to them in advance of the meeting. Attorney Marcaccio highlights some of the legislation, i.e. a new section in Title 17-25 that removes from expenditures anything that deals with ballot measures. The ACLU believes that any restriction on the matter is an infringement on first amendment rights. The 28-day campaign finance reporting date and the 50-ft rule are some of the other topics discussed. (Note: Mr. McGonagle from Cranston, visiting the Board on another matter, stated that the Cranston Board goes out

48 hours before the election and marks the 50-ft line). Going forward, the Members discussed legislation that would allow the Board to begin counting mail ballots up to two weeks prior to the election. However, the law that prevents the Board from tallying the votes before 9:00 p.m. election night would remain in effect.

With regard to the next matter of business: The Acting Director discussed a meeting that he had with the Secretary of State regarding the printing of election materials. By team-up with the SOS, the Board of Elections could ensure that its election materials would be

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printed in a timely manner. (Note: The SOS has less stringent state purchasing restrictions than the BOE with regard to printing and the use of vendors from the State's master price agreement list.)

Mr. Bowen notified the Members that he will be meeting with the SOS on matters concerning the state's Central Voter Registry System (CVRS) and its (SOS) acquisition of the AutoMark®: that is, voting equipment for persons with disabilities.

With regard to an update from legal council regarding draft

regulations: Attorney Marcaccio spoke of a legislation package that included amending recount procedures, the grouping together and tabulation of write-in votes for fictitious characters and the legal/illegal use of a sample or copy of a sample ballot. Attorney Marcaccio remarked that, in his opinion, a person can legally highlight names but cannot remove or alter names or information on a sample or copied ballot.

With regard to the next matter of business: The Board received an update from Attorney Marcaccio regarding the status of a number of lawsuits pending in superior court against several persons/organizations for non-compliance with regard to the filing of campaign finance reports (see attached list of defendants). Judge Procaccini of Providence County Superior Court set a hearing date of March 9, 2005 for all the cases with the exception of Keven McKenna who is fighting the suit. Mr. McKenna's case will be heard later in March.

With regard to the next matter of business: Mr. Bowen offered the "Acting Executive Director's Report" which included the following: an update on the final, administrative paperwork for former Director Fontaine; campaign finance issues and the shifting of agency staff to the finance section to alleviate the data backlog of (2,000) reports; a request for voting supervision by a BOE staff member was rescheduled for the next executive session of the Board; the inability of the Providence Board of Canvassers to supply the Board of

Elections with a tally of write-in votes cast in the November 2004 election; building maintenance and the use of state funds (\$10,000.) to construct a lower level meeting room/tabulation area for cast ballots; a review of compensatory time balances for BOE staff members, budget quarterly reports and a list of House and Senate hearing dates.

With no other matters for discussion, the Board adjourned at 11:35 a.m.

**Submitted by
Frances A. Keating
Coordinator, Special Projects**

(Note 1: Complaints etc. on file for review at Board, 50 Branch Ave. Providence, RI or by calling 401-222-2345.)

(Note 2: Minutes were approved at 5/12/06 meeting.)